



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0243

Introduced 1/14/2005, by Rep. Dan Brady

SYNOPSIS AS INTRODUCED:

205 ILCS 635/3-9
765 ILCS 1025/2

from Ch. 17, par. 2323-9
from Ch. 141, par. 102

Amends the Residential Mortgage License Act of 1987. Provides that the Commissioner shall provide for the transfer of any real estate escrow funds that are determined to be abandoned under the Uniform Disposition of Unclaimed Property Act to the State Treasurer. Amends the Uniform Disposition of Unclaimed Property Act. Provides that any real estate escrow funds that are held by a third party, individual, or entity charged with the fiduciary obligation for holding escrow funds on a residential or commercial real estate contract pending payout of those funds in accordance with the terms of the contract, that have been unclaimed by the contracting parties for more than 5 years from the date on which the funds were deposited into the real estate escrow account shall be presumed abandoned.

LRB094 03684 LCB 33689 b

1 AN ACT concerning abandoned property.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Residential Mortgage License Act of 1987 is
5 amended by changing Section 3-9 as follows:

6 (205 ILCS 635/3-9) (from Ch. 17, par. 2323-9)

7 Sec. 3-9. Escrow Funds. The Commissioner may promulgate
8 rules with respect to placement in escrow accounts by any
9 licensee of any money, fund, deposit, check or draft entrusted
10 to it by any persons dealing with it as a residential mortgage
11 licensee. The Commissioner shall provide for the transfer of
12 any real estate escrow funds that are determined to be
13 abandoned under Section 2 of the Uniform Disposition of
14 Unclaimed Property Act to the State Treasurer.

15 (Source: P.A. 85-735.)

16 Section 10. The Uniform Disposition of Unclaimed Property
17 Act is amended by changing Section 2 as follows:

18 (765 ILCS 1025/2) (from Ch. 141, par. 102)

19 Sec. 2. Property held by financial organizations;
20 presumption of abandonment. The following property held or
21 owing by a banking or financial organization is presumed
22 abandoned:

23 (a) Any demand, savings, or matured time deposit with a
24 banking organization, together with any interest or dividend
25 thereon, excluding any charges that may lawfully be withheld,
26 unless the owner has, within 5 years:

27 (1) Increased or decreased the amount of the deposit,
28 or presented the passbook or other similar evidence of the
29 deposit for the crediting of interest; or

30 (2) Corresponded in writing with the banking

1 organization concerning the deposit; or

2 (3) Otherwise indicated an interest in the deposit as
3 evidenced by a memorandum on file with the banking
4 organization.

5 (b) Any funds paid toward the purchase of withdrawable
6 shares or other interest in a financial organization, or any
7 deposit made, and any interest or dividends thereon, excluding
8 any charges that may be lawfully withheld, unless the owner has
9 within 5 years:

10 (1) Increased or decreased the amount of the funds, or
11 deposit, or presented an appropriate record for the
12 crediting of interest or dividends; or

13 (2) Corresponded in writing with the financial
14 organization concerning the funds or deposit; or

15 (3) Otherwise indicated an interest in the funds or
16 deposit as evidenced by a memorandum on file with the
17 financial organization.

18 (c) Any sum payable on checks or on written instruments on
19 which a banking or financial organization or business
20 association is directly liable including, by way of
21 illustration but not of limitation, certificates of deposit,
22 drafts, money orders and travelers checks, that with the
23 exception of travelers checks has been outstanding for more
24 than 5 years from the date it was payable, or from the date of
25 its issuance if payable on demand, or, in the case of travelers
26 checks, that has been outstanding for more than 15 years from
27 the date of its issuance, excluding any charges that may be
28 lawfully withheld relating to money orders issued by currency
29 exchanges, unless the owner has within 5 years or within 15
30 years in the case of travelers checks corresponded in writing
31 with the banking or financial organization or business
32 association concerning it, or otherwise indicated an interest
33 as evidenced by a memorandum on file with the banking or
34 financial organization or business association.

35 (d) Any funds or other personal property, tangible or
36 intangible, removed from a safe deposit box or any other

1 safekeeping repository or agency or collateral deposit box on
2 which the lease or rental period has expired due to nonpayment
3 of rental charges or other reason, or any surplus amounts
4 arising from the sale thereof pursuant to law, that have been
5 unclaimed by the owner for more than 5 years from the date on
6 which the lease or rental period expired, subject to lien of
7 the holder for reimbursement of costs incurred in the opening
8 of a safe deposit box as determined by the holder's regular
9 schedule of charges.

10 (d-5) Any real estate escrow funds that are held by a third
11 party, individual, or entity charged with the fiduciary
12 obligation for holding escrow funds on a residential or
13 commercial real estate contract, pending payout of those funds
14 in accordance with the terms of the contract, that have been
15 unclaimed by the contracting parties for more than 5 years from
16 the date on which the funds were deposited into the real estate
17 escrow account.

18 (e) Notwithstanding any other provision of this Section, no
19 deposit except passbook, checking, NOW accounts, super NOW
20 accounts, money market accounts, or such similar accounts as
21 established by Rule of the State Treasurer, held by a banking
22 or financial organization shall be presumed abandoned if with
23 respect to such a deposit which specifies a definite maturity
24 date, such organization was authorized in writing to extend or
25 rollover the account for an additional like period and such
26 organization does so extend. Such deposits are not presumed
27 abandoned less than 5 years from that final maturity date.
28 Property of any kind held in an individual retirement account
29 (IRA) is not presumed abandoned earlier than 5 years after the
30 owner attains the age at which distributions from the account
31 become mandatory under law.

32 (f) Notwithstanding any other provision of this Section,
33 money of a minor deposited pursuant to Section 24-21 of the
34 Probate Act of 1975 shall not be presumed abandoned earlier
35 than 5 years after the minor attains legal age. Such money
36 shall be deposited in an account which shall indicate the birth

1 date of the minor.

2 (Source: P.A. 91-16, eff. 7-1-99; 91-316, eff. 7-29-99; 92-16,

3 eff. 6-28-01.)